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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,249	12/14/2006	Iyad Al Khatib	149300.00000	5502
25207 7590 09/22/2009 BRYAN CAVE POWELL GOLDSTEIN ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488				
EXAMINER JIANG, CHARLES C				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
09/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,249

Applicant(s)

KHATIB, IYAD AL

Examiner

CHARLES C. JIANG

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 is/are allowed.
- 6) ☒ Claim(s) 13-16 is/are rejected.
- 7) ☒ Claim(s) 17-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 07/02/2009 have been fully considered but they are not persuasive.
2. Applicant's arguments with respect to claims 13-16 (Remarks, Page 12) have been considered, but are not persuasive. The applicant argued that claims 13 to 16 ought to be interpreted as claiming a computer readable medium, even though the claims recite a computer program product.
3. The words of a claim must be given their plain meaning unless such a meaning is inconsistent with the specification. MPEP 2111.01.
4. Thus a computer program product ought to be given their ordinary meaning, which is a computer program or software. Furthermore, it would be inconsistent to interpret it as a computer readable medium, because the specification provides no support for a computer readable medium, hence a 35 USC 112 first paragraph issue would arise, if such an interpretation is adopted. Finally, even if the applicant's argument is taken at face value, because the specification provided no support for the computer readable medium, therefore there is nothing to prevent the interpretation of a computer readable medium as a signal, thus the 35 USC 101 issue would still remain.

Response to Amendment

Claim Objections

5. Claim 17 is objected to because of the following informalities: claim 17 recites " wherein the single computing unit is adapted to function as both a first, second and third

computing unit comprising". It is not clear whether comprising refers back to the single computing unit, or the first, second and third computing unit. It is also not clear whether a first computing unit is the single computing unit. The Examiner recommends amending the claims to clarify. Appropriate correction is required.

6. Claim 18 depends on claim 17, thus is objected for the same reason.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention in claims 13-16 directed to the judicial exception to 35 U.S.C 101 (a computer program product is software, like an algorithm, is not patentable) and is not directed to a practical application of such judicial exception, because the claim does not require any physical transformation (i.e. computer readable medium is not mentioned in the claim, nor is a computer processor) and the invention as claimed does not produce a useful, concrete and tangible result.

Allowable Subject Matter

9. Claims 1-12 are allowed.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES C. JIANG whose telephone number is (571)270-7191. The examiner can normally be reached on M-F: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 517-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. C. J./
Examiner, Art Unit 2416

/William Trost/
Supervisory Patent Examiner, Art Unit 2416